

No. 44807-6-II

COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

Respondent,

vs.

Ibrahim Hassan,

Appellant.

Thurston County Superior Court Cause No. 13-1-00140-7

The Honorable Judge Christine Schaller

Appellant's Opening Brief

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TABLE OF CONTENTS

| | |
|---|------------|
| TABLE OF CONTENTS | i |
| TABLE OF AUTHORITIES | iii |
| ISSUES AND ASSIGNMENTS OF ERROR..... | 1 |
| STATEMENT OF FACTS AND PRIOR PROCEEDINGS..... | 4 |
| ARGUMENT..... | 9 |
| I. Mr. Hassan’s convictions violated his right to adequate notice under the Fifth, Sixth, and Fourteenth Amendments and Wash. Const. art. I, §§ 3, 22. | 9 |
| A. Standard of Review..... | 9 |
| B. The Information failed to apprise Mr. Hassan of the “common scheme or plan” element of theft in the second degree, given the state’s aggregation of multiple incidents. | 9 |
| II. Errors in the court’s jury instructions violated Mr. Hassan’s Fourteenth Amendment right to due process. | 11 |
| A. Standard of Review | 11 |
| B. The court’s “to convict” instructions omitted essential elements of theft and UIBC. | 12 |
| C. The trial court’s inconsistent instructions defining UIBC infringed Mr. Hassan’s Fourteenth Amendment right to due process..... | 15 |
| III. The court miscalculated the restitution amount. | 17 |

| | |
|---|-----------|
| A. Standard of Review..... | 17 |
| B. The court erred by ordering Mr. Hassan to pay \$2,400 of restitution when he only caused a loss to Gilpin of \$1,000..... | 17 |
| C. Mr. Hassan was deprived of the effective assistance of counsel when his attorney failed to object to the \$2400 restitution amount. | 18 |
| CONCLUSION | 19 |

TABLE OF AUTHORITIES

FEDERAL CASES

| | |
|--|----|
| <i>Cole v. Arkansas</i> , 333 U.S. 196, 68 S.Ct. 514, 92 L.Ed. 644 (1948)..... | 9 |
| <i>Neder v. United States</i> , 527 U.S. 1, 1119 S.Ct. 1827, 144 L.Ed.2d 35 (1999)..... | 12 |
| <i>United States v. Cina</i> , 699 F.2d 853 (7th Cir.), <i>cert. denied</i> , 464 U.S. 991, 104 S.Ct. 481, 78 L.Ed.2d 679 (1983)..... | 9 |

WASHINGTON STATE CASES

| | |
|--|------------|
| <i>Dever v. Fowler</i> , 63 Wn. App. 35, 816 P.2d 1237 (1991) <i>amended</i> , 824 P.2d 1237 (1992)..... | 15, 16 |
| <i>Donner v. Donner</i> , 46 Wn.2d 130, 278 P.2d 780 (1955)..... | 15 |
| <i>Gregoire v. City of Oak Harbor</i> , 170 Wn.2d 628, 244 P.3d 924 (2010).. | 11 |
| <i>Hall v. Corp. of Catholic Archbishop of Seattle</i> , 80 Wn.2d 797, 498 P.2d 844 (1972)..... | 15 |
| <i>Koker v. Armstrong Cork, Inc.</i> , 60 Wn. App. 466, 804 P.2d 659 (1991) | 15, 16 |
| <i>Renner v. Nestor</i> , 33 Wn. App. 546, 656 P.2d 533 (1983)..... | 15 |
| <i>Robbins v. Legacy Health Sys., Inc.</i> , 43666-3-II, --- Wn. App. ---, 2013 WL 5728111 (Oct. 22, 2013)..... | 16 |
| <i>State v. Brooks</i> , 77 Wn. App. 516, 892 P.2d 1099 (1995)..... | 10, 13 |
| <i>State v. Brown</i> , 147 Wn.2d 330, 58 P.3d 889 (2002) | 12, 13, 15 |
| <i>State v. Griffith</i> , 164 Wn.2d 960, 195 P.3d 506 (2008)..... | 16, 17, 18 |
| <i>State v. Hendrickson</i> , 138 Wn. App. 827, 158 P.3d 1257 (2007)..... | 18 |

| | |
|--|--------------------|
| <i>State v. Johnson</i> , 119 Wn.2d 143, 829 P.2d 1078 (1992)..... | 9 |
| <i>State v. Kylo</i> , 166 Wn.2d 856, 215 P.3d 177 (2009) | 11 |
| <i>State v. Mills</i> , 154 Wn.2d 1, 109 P.3d 415 (2005)..... | 12 |
| <i>State v. Rivas</i> , 168 Wn. App. 882, 278 P.3d 686 (2012) <i>review denied</i> , 176 Wn.2d 1007, 297 P.3d 68 (2013)..... | 10, 11, 12, 13, 14 |
| <i>State v. Smith</i> , 174 Wn. App. 359, 298 P.3d 785 (2013) <i>review denied</i> , 178 Wn.2d 1008, 308 P.3d 643 (2013)..... | 11, 13, 14 |
| <i>State v. Walden</i> , 131 Wn.2d 469, 932 P.2d 1237 (1997)..... | 15 |
| <i>State v. Wanrow</i> , 88 Wn.2d 221, 559 P.2d 548 (1977)..... | 15 |
| <i>State v. Williams-Walker</i> , 167 Wn.2d 889, 225 P.3d 913 (2010) | 12 |
| <i>State v. Zillyette</i> , 178 Wn.2d 153, 307 P.3d 712 (2013) | 8, 9 |

CONSTITUTIONAL PROVISIONS

| | |
|--------------------------------|---------------------------|
| U.S. Const. Amend. V | 1, 8 |
| U.S. Const. Amend. VI | 1, 3, 8, 9 |
| U.S. Const. Amend. XIV | 1, 2, 3, 8, 9, 11, 12, 15 |
| Wash. Const. art. I, § 22..... | 1, 8, 9 |
| Wash. Const. art. I, § 3..... | 1, 8 |

WASHINGTON STATUTES

| | |
|--------------------|--------|
| RCW 9.94A.753..... | 17, 18 |
| RCW 9A.56.040..... | 10, 13 |
| RCW 9A.56.060..... | 14, 16 |

OTHER AUTHORITIES

RAP 2.5..... 11

ISSUES AND ASSIGNMENTS OF ERROR

1. Mr. Hassan's theft convictions violated his Fifth, Sixth, and Fourteenth Amendment right to notice of the charges against him.
2. Mr. Hassan's theft convictions violated his state constitutional right to notice of the charges against him, under Wash. Const. art. I, §§ 3 and 22.
3. The Information was deficient because the state pursued an aggregation theory but did not allege that Mr. Hassan stole \$750 as part of a common scheme or plan.

ISSUE 1: A criminal Information must set forth all of the essential elements of an offense. The Information charged Mr. Hassan with theft, but failed to allege a common scheme or plan. Did the Information omit an essential element of the offense, in light of the state's aggregation of multiple incidents of theft?

4. Mr. Hassan's convictions for second-degree theft infringed his Fourteenth Amendment right to due process because the court's instructions relieved the state of its obligation to prove an essential element of each crime.
5. The court's instructions failed to make the relevant legal standard manifestly clear to the average juror, given the state's pursuit of an aggregation theory at trial.
6. The court's elements instruction relieved the state of its burden to prove that Mr. Hassan acted pursuant to a common scheme or plan.
7. The trial court erred by giving Instructions Nos. 13 and 14.

ISSUE 2: A trial court's "to convict" instruction must inform the jury of the state's burden to prove every essential element of the charged crime. Here, the court's elements instruction allowed conviction of second-degree theft based on aggravation of multiple incidents without requiring proof of a common scheme or plan. Did the trial court's instructions

relieve the prosecution of its burden to prove the essential elements of second-degree theft in violation of Mr. Hassan's Fourteenth Amendment right to due process?

8. Mr. Hassan's convictions for UIBC infringed his Fourteenth Amendment right to due process because the court's instructions relieved the state of its obligation to prove an essential element of each crime.
9. The court's instructions failed to make the relevant legal standard manifestly clear to the average juror.
10. The court's elements instruction relieved the state of its burden to prove that Mr. Hassan drew or delivered a check on a bank or other depository for the payment of money, as required to establish UIBC.
11. The court's conflicting instructions defining UIBC misled the jury and prejudiced Mr. Hassan.
12. The trial court erred by giving Instructions Nos. 7 and 8.

ISSUE 3: A court's elements instruction must include all essential elements of the charged crime. Here, the court's elements instruction allowed conviction even absent proof that Mr. Hassan drew or delivered a check on a bank or other depository for the payment of money. Did the trial court's instructions relieve the prosecution of its burden to prove the essential elements of UIBC in violation of Mr. Hassan's Fourteenth Amendment right to due process?

ISSUE 4: Where a court's instructions provide inconsistent decisional standards or stem from a clear misstatement of law, prejudice is presumed. Here, the court gave inconsistent instructions defining UIBC. Did the court's inconsistent instructions mislead the jury and violate Mr. Hassan's Fourteenth Amendment right to due process?

13. The trial court erred by ordering Mr. Hassan to pay \$2400 in restitution.

14. The trial court erred by entering Finding of Fact No. 4.1 (Judgment and Sentence).
15. Mr. Hassan was deprived of his Sixth and Fourteenth Amendment right to the effective assistance of counsel.
16. Defense counsel provided ineffective assistance by failing to object to the court's restitution order.

ISSUE 5: By statute, the total amount of restitution in a criminal case must be established by a preponderance of the evidence. Here, the trial court arbitrarily imposed \$2400 in restitution, despite evidence establishing a loss of only \$1000. Did the trial court exceed its statutory authority by imposing restitution that exceeded the amount proved by a preponderance of the evidence?

ISSUE 6: An accused person is guaranteed the effective assistance of counsel. Here, defense counsel unreasonably failed to object to the trial court's \$2400 restitution order, in light of undisputed evidence establishing a loss of only \$1000. Did counsel's deficient performance prejudice Mr. Hassan in violation of his Sixth and Fourteenth Amendment right to counsel?

STATEMENT OF FACTS AND PRIOR PROCEEDINGS

Ibrahim Hassan emigrated to the United States from Egypt. He became a vacuum cleaner salesman in Washington State. He employed seven to ten people in his business selling Kirby vacuums door-to-door. RP 107-110.

Mr. Hassan opened business accounts at the Navy Federal Credit Union in Bremerton in 2012. He deposited payments from his business into these accounts. The payments included credit card deposits, loan deposits, and other income. He used his business accounts to pay staff and expenses. RP 16, 111-117.

In November of 2012, the Navy Federal Credit Union asked Mr. Hassan to meet with bank staff. Mr. Hassan was told he no longer met the criteria for membership. Mr. Hassan hoped that the bank would allow him to remain a customer if he met the criteria again. He continued to go to the bank following the November meeting, in an effort to persuade management to keep his accounts active. RP 17-19, 21, 64, 118-124. He also opened a new account at OBee Credit Union. RP 72-73.

Mr. Hassan believed that his accounts with the Navy FCU were not closed. Bank management believed the accounts were closed. When Mr.

Hassan wrote four checks on his Navy Federal Credit Union accounts, the bank did not honor them. RP 17, 20, 122.

He wrote one check to a friend named Tiffany Gilpin, to help her repair her car. RP 24, 27-28. The check was for \$2400 total. RP 28. Gilpin deposited the check at her bank. She kept \$1000 to repair her car, claimed that she gave him the remaining \$1400 in cash. RP 28, 30-31. Mr. Hassan later explained that he'd done this because he needed cash, and her bank was closer than his. RP 132-138. The \$2400 check was not honored. Gilpin did not testify that she'd suffered any loss besides the \$1400 in cash she'd given to Mr. Hassan. RP 23-44. Mr. Hassan later repaid Gilpin \$400 of that \$1400. RP 44.

Mr. Hassan wrote a second check to his landlord. This check was not honored by Navy FCU. RP 48-49.

He wrote two additional checks to himself, and deposited them at his new bank (OBee Credit Union). He made several withdrawals from his account at OBee. RP 83-91. On December 29, 2012, he made two separate withdrawals. One was for \$500; the other was for \$302. RP 85-86. On December 31, 2012, he made two more withdrawals. One was for \$600; the other was for \$160. RP 90.

As a result of these withdrawals, Mr. Hassan was overdrawn at OBee Credit Union. The bank closed his account. RP 72, 96-97. Mr.

Hassan later repaid OBee Credit Union the amount he'd been overdrawn.
RP 57, 96.

The state charged Mr. Hassan with two counts of Theft in the Second Degree (based on the withdrawals from OBee Credit Union), and two counts of Unlawful Issuance of a Bank Check (based on the checks to Gilpin and his landlord). The Information charging theft alleged in each count that Mr. Hassan

... by color or aid of deception, obtained control over the property or services of another or the value thereof, with intent to deprive him or her of such property or services, the value of which exceeds seven hundred and fifty dollars (\$750.00).
CP 2-3.

At trial, the court instructed the jury on theft. The elements instructions regarding each theft charge read:

- (1) That on or about [date], the defendant by color or aid of deception, obtained control over property of another or the value thereof; and
 - (2) That the property exceeded \$750 in value;
 - (3) That the defendant intended to deprive the other person of the property; and
 - (4) That any of these acts occurred in the State of Washington.
- CP 36-37.

A separate instruction told jurors they could aggregate separate transactions to reach the \$750 total required to prove second-degree theft:

...Whenever any series of transactions that constitutes theft is part of a common scheme or plan, then the sum of the value of all transactions shall be the value considered in determining the amount of value.

CP 38.

The court gave two different instructions defining Unlawful

Issuance of a Bank Check. The court instructed jurors that:

A person commits the crime of unlawful issuance of a bank check when, with intent to defraud, he or she makes or delivers to another person any check or draft in an amount greater than \$750 on a bank or other depository for the payment of money, and the person knows at the time of such making or delivery that he or she does not have sufficient funds in, or credit with, the bank or other depository, to meet the check or draft, in full, upon presentation.
CP 35.

The court's "to convict" instructions read as follows:

To convict the defendant of the crime of unlawful issuance of a bank check as charged in Count I, each of the following elements of the crime must be proved beyond a reasonable doubt:

- (1) That on or about January 14, 2013, the defendant, acting with intent to defraud, made or delivered a check or draft to another person;
- (2) That said check or draft was in an amount greater than \$750;
- (3) That at the time of such making or delivery the defendant knew that he did not have sufficient funds in or credit with the bank or depository to meet the check or draft in the full upon its presentation; and
- (4) That any of these acts occurred in the State of Washington.

If you find from the evidence that each of these elements has been proved beyond a reasonable doubt, then it will be your duty to return a verdict of guilty.

On the other hand, if, after weighing all the evidence, you have reasonable doubt as to any of these elements, then it will be your duty to return a verdict of not guilty.

To convict the defendant of unlawful issuance of a bank check as charged in Count II, each of the following elements of the crime must be proved beyond a reasonable doubt:

- (1) That on or about January 4, 2013, the defendant, acting with intent to defraud, made or delivered a check or draft to another person;
- (2) That said check or draft was in an amount greater than \$750;
- (3) That at the time of such making or delivery the defendant knew that he did not have sufficient funds in or credit with the bank or depository to meet the check or draft in full upon its presentation; and
- (4) That any of these acts occurred in the State of Washington.

If you find from the evidence that each of these elements has been proved beyond a reasonable doubt, then it will be your duty to return a verdict of guilty.

On the other hand, if, after weighing all the evidence, you have reasonable doubt as to any of these elements, then it will be your duty to return a verdict of not guilty.
CP 35-36.

Mr. Hassan was convicted of all four charges. In spite of Gilpin's testimony that Mr. Hassan had repaid her \$400, the court ordered restitution of \$2400. CP 6. Defense counsel did not object. RP 237-149.

Mr. Hassan timely appealed. CP 12.

ARGUMENT

I. MR. HASSAN’S CONVICTIONS VIOLATED HIS RIGHT TO ADEQUATE NOTICE UNDER THE FIFTH, SIXTH, AND FOURTEENTH AMENDMENTS AND WASH. CONST. ART. I, §§ 3, 22.

A. Standard of Review.

Constitutional questions are reviewed *de novo*. *State v. Zillyette*, 178 Wn.2d 153, 161, 307 P.3d 712 (2013). A challenge to the constitutional sufficiency of a charging document may be raised for the first time on appeal. *Id.* Where the Information is challenged after verdict, the reviewing court construes the document liberally. *Id.* The test is whether the necessary facts appear or can be found by fair construction in the charging document. *Id.* If the Information is deficient, prejudice is presumed and reversal is required. *Id.*

B. The Information failed to apprise Mr. Hassan of the “common scheme or plan” element of theft in the second degree, given the state’s aggregation of multiple incidents.

The Sixth Amendment to the Federal Constitution guarantees an accused person the right “to be informed of the nature and cause of the accusation.” U.S. Const. Amend. VI.¹ A similar right is secured by the Washington State Constitution. Wash. Const. art. I, § 22.

¹ This right is guaranteed to people accused in state court, through the action of the Fourteenth Amendment. U.S. Const. Amend. XIV; *Cole v. Arkansas*, 333 U.S. 196, 201, 68 S.Ct. 514, 92 L.Ed. 644 (1948).

Under these provisions, all essential elements must be included in the charging document. *Zillyette*, 178 Wn.2d at 158. An essential element is “one whose specification is necessary to establish the very illegality of the behavior.” *State v. Johnson*, 119 Wn.2d 143, 147, 829 P.2d 1078 (1992) (citing *United States v. Cina*, 699 F.2d 853, 859 (7th Cir.), *cert. denied*, 464 U.S. 991, 104 S.Ct. 481, 78 L.Ed.2d 679 (1983)). Essential elements include both statutory and non-statutory facts that the state must prove beyond a reasonable doubt. *Zillyette*, 178 Wn.2d at 158.

Under RCW 9A.56.040, a person is guilty of second-degree theft if s/he “commits theft of property or services which exceed(s) seven hundred fifty dollars in value but does not exceed five thousand dollars in value.” Multiple thefts can be aggregated to reach this dollar amount, but only if the acts comprised a common scheme or plan. *State v. Brooks*, 77 Wn. App. 516, 520, 892 P.2d 1099 (1995).

When the state seeks to aggregate multiple acts based on a common scheme or plan, the existence of the common scheme is an essential element that must be charged in the Information. *State v. Rivas*, 168 Wn. App. 882, 890, 278 P.3d 686 (2012) *review denied*, 176 Wn.2d 1007, 297 P.3d 68 (2013). Failure to charge a common scheme or plan requires dismissal without prejudice. *Id.*, at 891.

Here, the state pursued an aggregation theory on both theft charges. One charge required jurors to aggregate a \$500 withdrawal and a \$302 withdrawal. RP 85-86; CP 2. Another charge required jurors to aggregate an ATM transaction of \$600 and a debit card withdrawal of \$160. RP 90; CP 3.

The prosecution failed to charge a common scheme or plan. CP 2-3. Rather, for each theft count, the state charged Mr. Hassan with:

... by color or aid of deception, obtain[ing] control over the property or services of another or the value thereof, with intent to deprive him or her of such property or services, the value of which exceeds seven hundred and fifty dollars (\$750.00).
CP 2-3.

The state failed to give Mr. Hassan notice of the “common scheme or plan” element. CP 2-3. This violated Mr. Hassan’s constitutional right to adequate notice of the essential elements of the offense. *Rivas*, 168 Wn. App. at 890. Mr. Hassan’s theft convictions must be reversed. *Id.*

II. ERRORS IN THE COURT’S JURY INSTRUCTIONS VIOLATED MR. HASSAN’S FOURTEENTH AMENDMENT RIGHT TO DUE PROCESS.

A. Standard of Review

The adequacy of jury instructions is reviewed *de novo*. *Gregoire v. City of Oak Harbor*, 170 Wn.2d 628, 635, 244 P.3d 924 (2010).

Instructions must make the relevant legal standard manifestly apparent to

the average juror. *State v. Kylo*, 166 Wn.2d 856, 864, 215 P.3d 177 (2009).

Instructing the jury in a manner relieving the state of its burden to prove each element beyond a reasonable doubt creates a manifest error affecting a constitutional right and can be raised for the first time on appeal. *State v. Smith*, 174 Wn. App. 359, 365, 298 P.3d 785 (2013) *review denied*, 178 Wn.2d 1008, 308 P.3d 643 (2013); RAP 2.5(a)(3).

When an element is omitted from the “to convict” instruction, the error is not harmless unless the element is supported by uncontroverted evidence. *State v. Brown*, 147 Wn.2d 330, 349, 58 P.3d 889 (2002)² (citing *Neder v. United States*, 527 U.S. 1, 18, 1119 S.Ct. 1827, 144 L.Ed.2d 35 (1999)).

B. The court’s “to convict” instructions omitted essential elements of theft and UIBC.

A trial court’s failure to instruct the jury as to every element of the crime charged violates due process. U.S. Const. Amend. XIV; *Rivas*, 168 Wn. App. at 891. A “to convict” instruction must contain all the elements of the crime, because it serves as a “yardstick” by which the jury measures the evidence to determine guilt or innocence. *State v. Mills*, 154 Wn.2d 1,

² *Brown* was a plurality opinion, but its holding has been restated by the court as summarized above in subsequent cases. See e.g. *State v. Williams-Walker*, 167 Wn.2d 889, 911, 225 P.3d 913 (2010).

6, 109 P.3d 415 (2005). The jury has the right to regard the “to convict” instruction as a complete statement of the law. Any conviction based on an incomplete “to convict” instruction must be reversed. *Id.* at 6-7. A court may not rely on other instructions to supply an element that is missing from the “to convict” instruction. *Id.* at 7.

1. The to-convict instructions omitted an essential element of theft based on a common scheme or plan.

The state may aggregate multiple thefts to reach the \$750 amount required to prove second-degree theft. Aggregation is permitted if the acts comprised a common scheme or plan. *Brooks*, 77 Wn. App. at 520; RCW 9A.56.040. When the state pursues aggregation, the common scheme or plan element must be included in the to-convict instruction. *Rivas*, 168 Wn. App. at 892.

Here, the court failed to instruct Mr. Hassan’s jury regarding this essential element. CP 36-37. The “to-convict” instructions for the theft charges listed the elements as:

- (5) That on or about [date], the defendant by color or aid of deception, obtained control over property of another or the value thereof; and
 - (6) That the property exceeded \$750 in value;
 - (7) That the defendant intended to deprive the other person of the property; and
 - (8) That any of these acts occurred in the State of Washington.
- CP 36-37.

The omission of the element that the thefts occur pursuant to a common scheme or plan violated Mr. Hassan's right to due process.

Rivas, 168 Wn. App. at 891. It relieved the state of its burden to prove each element beyond a reasonable doubt. *Smith*, 174 Wn. App. at 365.

The error is not harmless, because evidence of a common scheme or plan was disputed. *Brown*, 147 Wn.2d at 349. Mr. Hassan's theft convictions must be reversed. *Id.*

2. The to-convict instructions for unlawful issuance of a bank check omitted an essential element.

The statute criminalizing unlawful issuance of a bank check provides that:

Any person who shall with intent to defraud, make, or draw, or utter, or deliver to another person any check, or draft, *on a bank or other depository for the payment of money*, knowing at the time of such drawing, or delivery, that he or she has not sufficient funds in, or credit with the bank or other depository, to meet the check or draft, in full upon its presentation, is guilty of unlawful issuance of bank check

RCW 9A.56.060(1) (emphasis added). The plain language of the statute requires the check to be "on a bank or other depository for the payment of money." *Id.*

The court's "to-convict" instructions for UIBC omitted this element. CP 34-35. The instructions listed the elements for the two charges as:

- (1) That on or about [date], the defendant, acting with intent to defraud, made or delivered a check or draft to another person;
 - (2) That said check or draft was in an amount greater than \$750;
 - (3) That at the time of such making or delivery the defendant knew that he did not have sufficient funds in or credit with the bank or depository to meet the check or draft in full upon its presentation; and
 - (4) That any of these acts occurred in the State of Washington.
- CP 34-35.

The omission of this element relieved the state of its burden. The convictions violated Mr. Hassan's right to due process. *Rivas*, 168 Wn. App. at 891; *Smith*, 174 Wn. App. at 365. The error is not harmless, because evidence of a common scheme or plan was disputed. *Brown*, 147 Wn.2d at 349. Mr. Hassan's UIBC convictions must be reversed. *Id.*

C. The trial court's inconsistent instructions defining UIBC infringed Mr. Hassan's Fourteenth Amendment right to due process.

A trial court's instructions to the jury should not contradict each other. *State v. Walden*, 131 Wn.2d 469, 478, 932 P.2d 1237 (1997). If the inconsistency relates to a material point, the error is presumed to be prejudicial because "it is impossible to know what effect [such an error] may have on the verdict." *Koker v. Armstrong Cork, Inc.*, 60 Wn. App. 466, 483, 804 P.2d 659 (1991) (citing *Hall v. Corp. of Catholic Archbishop of Seattle*, 80 Wn.2d 797, 803-04, 498 P.2d 844 (1972)). Instructions providing "inconsistent decisional standards" require

reversal.³ *Dever v. Fowler*, 63 Wn. App. 35, 41, 816 P.2d 1237 (1991) *amended*, 824 P.2d 1237 (1992) (*citing Renner v. Nestor*, 33 Wn. App. 546, 550, 656 P.2d 533 (1983)). Such errors “are rarely cured by giving the stock instruction that all instructions are to be considered as a whole.” *Donner v. Donner*, 46 Wn.2d 130, 137, 278 P.2d 780 (1955).

A conviction for UIBC requires proof that the accused person made, drew, uttered, or delivered to another person “any check, or draft, *on a bank or other depository for the payment of money...*” RCW 9A.56.060(1) (emphasis added). The court gave three instructions defining UIBC, two of which misstated this element.

Instruction No. 9 included the italicized language. The court’s “to convict” instructions did not. CP 35. The to-convict instruction and definitional instruction provide inconsistent decisional standards. *Fowler*, 63 Wn. App. at 41. It is impossible to speculate as to which instruction the jury relied upon when it convicted Mr. Hassan. For this reason, the error must be presumed prejudicial. *Koker*, 60 Wn. App. at 483.

³ Reversal is also required if the inconsistency is due to a “clear misstatement of the law.” *Walden*, 131 Wn.2d at 478 (quoting *State v. Wanrow*, 88 Wn.2d 221, 239, 559 P.2d 548 (1977) (citations omitted)).

The court's instructions to Mr. Hassan's jury contradicted one another. *Koker*, 60 Wn. App. at 483. His UIBC convictions must be reversed. *Id.* at 485.

III. THE COURT MISCALCULATED THE RESTITUTION AMOUNT.

A. Standard of Review.

A restitution award is reviewed for abuse of discretion. *State v. Griffith*, 164 Wn.2d 960, 965, 195 P.3d 506 (2008). A court abuses its discretion when its decision is manifestly unreasonable or based on untenable grounds. *Robbins v. Legacy Health Sys., Inc.*, 43666-3-II, --- Wn. App. ---, 2013 WL 5728111 (Oct. 22, 2013).

B. The court erred by ordering Mr. Hassan to pay \$2,400 of restitution when he only caused a loss to Gilpin of \$1,000.

The amount of a restitution order must be based on "easily ascertainable damages." RCW 9.94A.753(3); *Griffith*, 164 Wn.2d at 965. When the defense disputes the restitution amount, the state must prove damages by a preponderance of the evidence. *Griffith*, 164 Wn.2d at 965.

The court ordered Mr. Hassan to pay \$2400 in restitution to Gilpin. CP 6. However, her total loss was only \$1000.

Mr. Hassan is alleged to have given Gilpin a check for \$2400. RP 28. Gilpin deposited the check in her account and gave Mr. Hassan \$1400

cash. RP 31-33. She testified that he later gave her \$400 back. RP 44. Gilpin did not testify that Mr. Hassan's offense had caused her any additional damages. RP 23-44. There is no indication that the bank required her to repay the full \$2400. RP 23-44.

Ms. Galpin could not access the \$1000 she deposited into her account. This was not itself a loss. Gilpin did lose \$1400 when she gave Mr. Hassan that amount in cash. He later repaid her for \$400 of that loss. RP 44. At the time of sentencing, it would have taken \$1000 to make Gilpin whole.

The "easily ascertainable damages" Mr. Hassan's offense caused to Gilpin were only \$1000. RCW 9.94A.753(3); *Griffith*, 164 Wn.2d at 965. The court erred by ordering him to pay \$2400 in restitution. RCW 9.94A.753(3); *Griffith*, 164 Wn.2d at 965. The restitution order must be vacated. *Griffith*, 164 Wn.2d at 968.

C. Mr. Hassan was deprived of the effective assistance of counsel when his attorney failed to object to the \$2400 restitution amount.

Mr. Hassan's defense counsel did not object to the court's restitution order. RP 244-45. Failure to object constitutes ineffective assistance of counsel where there is no valid tactical reason to waive objection. *State v. Hendrickson*, 138 Wn. App. 827, 833, 158 P.3d 1257 (2007). Defense counsel had no strategic justification for waiving his

client's right to have the state prove damages by a preponderance of the evidence. Mr. Hassan was prejudiced because the state would only have been able to prove that Gilpin sustained \$1000 in damages.

Mr. Hassan's attorney provided ineffective assistance by failing to object to the miscalculated restitution award. *Hendrickson*, 138 Wn. App. at 833. The restitution order must be vacated. *Griffith*, 164 Wn.2d at 968.

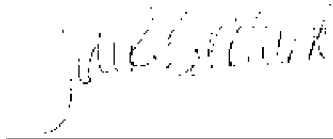
CONCLUSION

Mr. Hassan's constitutional right to notice of the charges against him was violated by the omission of an essential element from the Information. The court's instructions denied Mr. Hassan due process by relieving the state of its burden to prove each element beyond a reasonable doubt. In addition, the instructions defining UIBC were inconsistent. For all these reasons, Mr. Hassan's convictions must be reversed.

In the alternative, the court erred in ordering Mr. Hassan to pay \$2400 in restitution. Defense counsel provided ineffective assistance by failing to object to the restitution award. The court's restitution order must be vacated.

Respectfully submitted on November 4, 2013,

BACKLUND AND MISTRY



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CERTIFICATE OF SERVICE

I certify that on today's date:

I mailed a copy of Appellant's Opening Brief, postage prepaid, to:

Ibrahim Hassan
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Kirkland, WA 98034

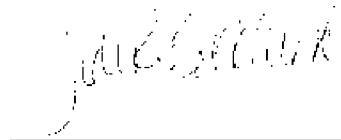
With the permission of the recipient(s), I delivered an electronic version of the brief, using the Court's filing portal, to:

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I filed the Appellant's Opening Brief electronically with the Court of Appeals, Division II, through the Court's online filing system.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

Signed at Olympia, Washington on November 4, 2013.



Jodi R. Backlund, WSBA No. 22917
Attorney for the Appellant

BACKLUND & MISTRY

November 04, 2013 - 2:04 PM

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